

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WATERLOO DIVISION

FILED  
U.S. DISTRICT COURT  
CEDAR RAPIDS HDQTRS OFFICE  
NORTHERN DISTRICT OF IOWA

JUL 01 2005

UNITED STATES OF AMERICA

Plaintiff,

vs.

RANDY LEE DANN,

Defendant.

No. CR ~~00-2033~~

DEPUTY

**ORDER**

The matter before the court is the motion for declaratory judgment. The motion is denied.


I am uncertain as to exactly what the defendant is requesting. Apparently, he has had disagreements with the Bureau of Prisons concerning how to classify the drug user in possession of a firearm count to which he pled guilty. The defendant should first exhaust his administrative remedies in the Bureau of Prisons before he proceeds to file a lawsuit. In any event, the declaratory judgment action would not be the appropriate vehicle to raise this issue.

By way of information, the court does note that Mr. Dann sent a letter on November 28, 2003, raising the same issue. I responded with a letter on January 6, 2004, indicating that the Judgement and Commitment Order correctly reflected the two counts to which the defendant pled guilty. That is, Count 1, charging Mr. Dann with manufacturing methamphetamine, and Count 2, charging Mr. Dann with possession of a firearm as an unlawful user of drugs. Accordingly, there would be no grounds to amend the Judgement and Commitment Order.

I would further note that at the time of sentencing it was my determination that there was no indication that the firearms were used in connection with the drug manufacturing offense. Specifically, I noted in the sentencing transcript, that the firearms involved two unloaded .22 rifles. I went on to state that: "These are the type of weapons that are typically found in farmhouses across Iowa that are used for sporting purposes and target shooting and so on, and without more evidence that the guns were actually used or possessed while the manufacturing was going on or was near the cook." Beyond reciting what I previously stated in the sentencing transcript, I don't believe I can do anything further to clarify this situation for Mr. Dann.

IT IS THEREFORE ORDERED that the motion for declaratory judgment is denied (doc. no. 29).

DONE AND ORDERED this 30<sup>th</sup> day of June, 2005.

  
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Michael J. Melloy  
UNITED STATES CIRCUIT JUDGE  
Sitting by Designation